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estate is regarded as in custodia legis from the filing of the petition.' *Acme Harvester Co. v. Beekman Lumber Co.*, 222 U. S. 300, 307, 56 L. Ed. 208, 213, 32 Sup. Ct. Rep. 96. * * * Had it been intended that the trustee should take the status of a creditor holding a lien by legal or equitable process as of a time anterior to the initiation of the bankruptcy proceeding, it seems reasonable to believe that some expression of that intention would have been embodied in § 47a as amended."

And see the case of *Everett v. Judson*, 228 U. S. 474, 479, 57 L. Ed. 927, 929, 46 L. R. A. (N. S.) 154, 33 Sup. Ct. Rep. 568, in support of the proposition "that the purpose of the law was to fix the line of cleavage with reference to the condition of the bankrupt estate as of the time at which the petition was filed, and that the property which vests in the trustee at the time of adjudication is that which the bankrupt owned at the time of the filing of the petition." See *Zavelo v. Reeves*, 227 U. S. 625, 631, 57 L. Ed. 676, 678, 33 Sup. Ct. Rep. 365, Ann. Cas. 1914D, 664.

Condition Sale—Recordation—Preferential Transfer.—Another question of interest in this case arose in this way: It was contended on the part of the Trustee in Bankruptcy that the filing of the contract of conditional sale operated as a preferential transfer. It was claimed by the trustee that before the contract was filed for record, the property therein described was subject to have been levied upon for the debts of the purchaser and that if the contract had not been recorded prior to the filing of the petition in bankruptcy the trustee in bankruptcy would have retained the property. The court, however, held that the contract itself did not operate as a preferential transfer because under the contract nothing passed from the seller to the purchaser.

A petition for rehearing was filed in which counsel insisted that it was not the contract so much that operated as a preferential transfer as the delay recording thereof at a time when by reason of the non-recording, a right was existing on the part of creditors to levy on the property and claim the property as against the seller.

On January 10, 1916, the petition for rehearing was denied, no opinion being filed, and hence it would seem that the court has announced the doctrine that where a contract of conditional sale is delayed in recording, the recording thereof does not operate as a preferential transfer because by the contract itself nothing passed from the seller to the purchaser.

Secret Commissions—Tips.—The Court of Special Sessions of the City of New York, in *The People of the State of New York v. Albert Davis*, held that that portion of section 439 of the Penal Law which forbids a purchasing agent to receive from a seller a commission or bonus on a sale made through such purchasing agent acting on behalf of his employer, and likewise forbids a seller to give or

offer a commission or bonus to a purchasing agent, is not repugnant either to the Constitution of the United States or the Constitution of the State of New York. Such provision is not class legislation; it does not interfere with legitimate liberty of contract; and it is within the police power of a state.

The court said: "The evil aimed at is in the service of two masters whose interests are necessarily and forever antagonistic.

But if the bonus or commission paid to another's agent is fully known to the employer of such agent, how can we say that this is a secret commission and that the employer has been dealt with treacherously and betrayed? Much of the world's business has been in the course of years adjusted to conditions which involved and even necessitate the giving of tips, so-called. The tips to barbers, to stewards on ocean steamships, to waiters in hotels and restaurants, and to porters on parlor cars are within the knowledge of all who have the least familiarity with these branches of business. No one can successfully contend that there is any fraud or deception lurking in these transactions, or that anybody is injured, whether the employer or employee or the customer. When these so-called gratuities are definitely contemplated from the beginning and are regarded as a necessary and inevitable feature of certain business transactions, and made so by a custom which has almost ripened into law, such business as a whole becomes firmly adjusted to the giving and receiving of such gratuities. * * *

The statute in the case at bar divests no property and harms no vested right. It is not in any sense class legislation, because it applies generally to all workers in a certain definite occupation. Such customs of trade as are denounced by this statute are demoralizing to society."

Bankruptcy—Widow's Allowance—In the Matter of Charles M. Scott, 35 A. B. R. 746.—Where a bankrupt, who has made a general assignment for the benefit of creditors within four months of bankruptcy, dies before the proceeds of his estate are distributed to creditors, his widow is entitled under section 8 of the Bankruptcy Act to the share allowed her under the state statute.

In the principal case the court said: "*Hull v. Dicks*, 235 U. S. 584, 34 Am. B. R. 1, 35 Sup. Ct. 152, is authority for sustaining the award unless Scott's assignment for the benefit of creditors makes a difference. But the Bankruptcy Act is of national scope and paramount authority. True, a general assignment for the benefit of creditors is not forbidden. It is an act of bankruptcy, regardless of solvency; but neither the debtor nor his creditors are bound thereupon to resort to the national courts. And so, pending a petition in bankruptcy within the succeeding four months, the assignment may be said to be only voidable; but the moment national jurisdiction attaches, the assignment is absolutely void, no one, pending the attach-